

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

APPLICANT(S): Vandersluis

EXAMINER: Burgess, Barbara N.

SERIAL NO.: 09/992,791

ART GROUP: 2157

FILED: November 19, 2001

Case No.: XAW-0103

ENTITLED: Method for Componentization of Electronic Document Processing

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APPEAL BRIEF

Honorable Commissioner of
Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal from the final rejection of claims 1-18 of the Office Action dated September 10, 2007. This application was filed on November 19, 2001. Appellant submits this Appeal Brief pursuant to 35 U.S.C. §134 and 37 C.F.R. § 41.37 in furtherance of the Notice of Appeal filed in this case on November 21, 2008. This case has also been through a preappeal brief, a previous appeal brief and four Office Actions. The PTO has failed to do its job and has denied the applicant due process in its delays and piecemeal prosecution.

The fees required under 37 C.F.R. §1.17(b) and any other necessary fees as indicated in the accompanying Appeal Brief Transmittal Letter are submitted herewith.

I. Real Party In Interest

The real party in interest is: XAware Corporation, a corporation organized and existing under the laws of the state of Colorado, and having a place of business at 5555 Tech.Center Dr., Suite 200, Colorado Springs, CO 80919. See the Assignment recorded at Reel 014949, Frame 0313.

II. Related Appeals And Interferences

There are no appeals or interferences related to the present appeal.

III. Status Of Claims

Claims 1-18 (see Appendix) are pending in this application. Claims 1-18 are rejected and are involved in this appeal.

IV. Status Of Amendments

No response was entered subsequent to the final rejection of May 6, 2008. There has been no resolution of the substantive rejections.

V. Summary Of Claimed Subject Matter

The independent claim 1 is argued separately.

Claim 1 is a series of steps and the first step is to "define a BizDocument containing XML which defines a data message." A BizDocument is defined on page 11, lines 10-11 of the specification as "A BizDocument is an XML file with possibly static contents intermixed with references to BizComponents." A BizDocument is further described on pages 4 & 5, lines 24-28 & 1-7. A BizDocument is shown in FIGs. 1-4 as elements 3, 22, 42 & 62. A data message is described, on page 6, lines 6-10 as an instance of a BizDocument. FIG. 2 step 22 defines the BizDocument. The next step in the claim is to "provide for the ability of the client systems to request a specific BizDocument." Client systems are shown in FIGs. 1-4, elements 1, 24, 40, 60. A client system is a standard client in a client-server computer system thus "a Client system 1 that desires an instance of a message sends a request for that message . . . to a BizDocument 3." Page 11, lines 8-10. The next step of claim 1 is "upon receipt of a request for a BizDocument, read the BizDocument according to a predefined computer language." This is shown in FIG. 2 step 25. The processing of a BizDocument is described in detail starting on page 13, line 3 through page 15. The last step of claim 1 is to send the resulting contents of the attached memory to the requesting client system. This is shown in FIG. 2, element 26 and describe on page 12, lines 28-29.

VI. Grounds of Rejection to be Reviewed on Appeal

1. Whether claims 1-18 are unpatentable under 35 USC 102(e) over Prompt (US Patent Publication 2006/0020586 A1)?

VII. Argument

Issue 1. Whether claims 1-18 are unpatentable under 35 USC 102(e) over Prompt (US Patent Publication 2006/0020586 A1)?

A prior art reference must inherently or expressly disclose every element and the elements must be arranged as in the claim for a proper anticipation rejection under section 102. *Richardson v. Suzuki Motor Co.*, 868 F.2d.1226, 9 USPQ2d 1913 (Fed. Cir. 1989).

Prompt is concerned with an "Internet directory service or universal addressing scheme" Paragraph 0019. He is not concerned with a method of processing and generation of data messages into components. Prompt is clearly not directed to the same problem as the present application.

Claim 1 recites defining a bizdocument containing XML which defines a data message. A BizDocument is defined on page 11, lines 10-11 of the specification as "A BizDocument is an XML file with possibly static contents intermixed with references to BizComponents." The Patent Office points (OA 9/10/07, page 2) to paragraphs 0025, 0132 and 0159. Paragraphs 0025 and 0132 do not even mention XML. Paragraph 0159 does mention XML, but it describes a module for mapping relational objects into an XML format. It does not state that the component involved in the translation is an XML file, just that the output is in an XML format. These are two distinct concepts. This paragraph 0159 also does not mention anything about the bizdocument defining a data message, just a format translator. Note, the applicant is allowed to be his own lexicographer see *ZMI Corp v. Cardiac Resuscitator Corp.* 844 F.2d 1576, 6 USPQ2d 1557, 1560. A format translator cannot be construed to be a bizdocument, since a format translator is not a data message.

Claim 1 recites "providing the ability of a client system to request a specific BizDocument". The Patent Office points to paragraphs 0132, 0137 & 0142 (OA 9/10/07, page 2). Paragraph 0132 only discusses a virtual directory service (VDS). Which is described as software on a sever for maintaining a virtual representation of directory information. This cannot be the bizdocument since it does not contain XML, nor is a directory defining a data message. Paragraph 0137 just describes a client station and has absolutely nothing to do with a BizDocument. A client is not an XML file with possibly static contents intermixed with references to BizComponents as a BizDocument is defined on page 11, lines 10-11 of the specification.

Paragraph 0142 just describes the main memory unit that may have a web browser that can process XML. This is not a Bizdocument that contains XML and defines a data message. Since none of these paragraphs describe anything analogous to a Bizdocument, they clearly do not provide a client system the ability to request a specific Bizdocument. Prompt does not inherently or expressly disclose every element and the elements must be arranged as in the claim. Claim 1 is clearly allowable.

Claim 2 recites a Bizcomponent that is processed during the processing of the BizDocument. Since Prompt clearly does not have BizDocuments he cannot have BizComponents. Prompt does not inherently or expressly disclose every element and the elements must be arranged as in the claim. Claim 2 is clearly allowable.

Claims 3-14 are allowable for the same reasons as claim 2.

Claim 15 recites that the format of the BizDocument, BizComponent and BizDriver are XML. Prompt does not show any executable components that have an XML format. Prompt does not inherently or expressly disclose every element and the elements must be arranged as in the claim. Claim 15 is clearly allowable.

Claims 16-18 are allowable as being dependent upon an allowable base claim.

Issue 2. The Patent Office has failed to treat the applicant and his application in a manner consistent with patent rules, MPEP and notions of due process.

This application was filed in 2001. The first Office Action was not until 2005. Since then the case has gone through a preAppeal, Appeal and five Office Actions. A different reference has been cited in almost every case. Instead of deciding the case during the first Appeal another reference was cited. The Office Action dated 3/22/07 only recited 112 issues. These were corrected an another reference, Prompt, was cited against this application and we were given a final (last OA 9/10/09). A final should not have been issued, the case should have been allowed. The process that this application has gone through is not fair to the applicant, not reasonable and violates the rules against piecemeal prosecution. I am respectfully requesting, no begging, the present board who is not to blame to put an end to this unfair prosecution. This is not good for the applicant, who has lost funding opportunities due to this delay. This is not good for the PTO which has wasted resources by not providing all relevant rejections in the first Office Action – note that only claim 1 has been amended once to amend the preamble. This is not good for the American economy, which relies on a patent system to provides timely feedback so that investment decisions can be made in high technology start-ups, such as this company. Finally, please not that this applicant, XAware, has dealt with this same poor treatment in a number of its applications.

VIII. Claims Appendix

1. A method for processing and generation of data messages into components comprising the computer-implemented steps of: a. Define a BizDocument containing XML which defines a data message; b. Provide for the ability for Client systems to request a specific BizDocument; c. Upon receipt of a request for a BizDocument, read the BizDocument into an attached memory, perform processing on each element within the BizDocument according to a predefined computer language; d. Send the resulting contents of the attached memory to the requesting Client system.
2. The method of claim 1 wherein the method further comprises the steps of providing the capability to define data sets called BizComponents associated to one or more elements of a message, a BizComponent having a definition that is stored in a separate file or module, or generated by some other process, and the capability of processing a BizComponent during the processing of elements within the BizDocument.
3. The method of claim 2 wherein a BizComponent may include the definition of parameters for which the calling BizDocument or Client will provide actual values.
4. The method of claim 3 wherein a BizComponent may accept a set of elements as input and may provide a set of elements as output.
5. The method of claim 4 wherein a BizComponent may interact with a Server system, or other BizComponent, or other BizDocument to transfer data to or from that Server system.
6. The method of claim 5 wherein a BizComponent may transform data between the required format of the Server system with which it interacts, and the desired format of a message;

7. The method of claim 6 wherein a BizComponent may contain processing instructions which are processed according to a predefined computer language.
8. The method of claim 7 wherein a BizComponent may be considered to belong to a class of BizComponents, and a computer program or code module designed to process BizComponents in that class may be loaded to process the BizComponent.
9. The method of claim 8 wherein the method further comprises the steps of providing the capability for a BizComponent to access a Server system through an intermediate entity called a BizDriver, a BizDriver having a definition stored in a separate file or module, or generated by some other process.
10. The method of claim 9 wherein a BizDriver may include the definition of parameters for which the calling BizComponent will provide actual values.
11. The method of claim 10 wherein a BizDriver may accept a set of elements as input and may provide a set of elements as output.
12. The method of claim 11 wherein a BizDriver may interact with a Server system, to transfer data to or from that Server system.
13. The method of claim 12 wherein a BizDriver may contain processing instructions which are processed according to a predefined computer language.
14. The method of claim 13 wherein a BizDriver may be considered to belong to a class of BizDrivers, and a computer program or code module designed to process BizDrivers in that class may be loaded to process the BizComponent.
15. The method of claim 14 wherein the format of a BizDocument, BizComponent, and BizDriver may be Extensible Markup Language (XML).

16. The method of claim 15 wherein a BizDocument may include the definition of parameters for which the calling Client will provide actual values.

17. The method of claim 16 wherein a BizDocument may accept a set of elements as input and may provide a set of elements as output.

18. The method of claim 17 wherein a BizDocument may contain processing instructions which are processed according to a predefined computer language.

IX. Evidence Appendix

None

X. Related Proceedings Appendix

None

Respectfully submitted,
(Hunt et al.)

By: /dbh/
Attorney for the Applicant
Dale B. Halling
Registration No. 38,170
Customer No.: 25,007
Phone: (719) 447-1990
Fax: (719) 447-9815